

intelligence reform legislation that it opposed a provision in the draft legislation that would have provided legal protections to foreign prisoners to which they are not now entitled. The President has repeatedly stated that his Administration does not authorize or condone torture under any circumstances by U.S. personnel. I, of course, fully support the President's policy in this area.

e) The same New York Times story reported that the Defense Department opposed a measure in the military authorization bill which would have explicitly prohibited the use of torture, and cruel, inhuman and other degrading treatment by Defense Department personnel? Why did the administration oppose that provision? Did you participate in the decision to oppose the decision? Did you lobby anyone in Congress on the issue? Do you think the provision should have been included in the legislation?

Response: I am not familiar with the matters referred to in the New York Times story.

16) The trial of Army Specialist Charles Graner for mistreating detainees at Abu Ghraib recently began in Ft. Hood, Texas. Specialist Graner's defense is that the abuse he committed was authorized by his supervisors. As I indicated at the hearing, and as corroborated by the Fay and Schlesinger reports, the policy memos on the Geneva Conventions, torture, and ghost detainees that you wrote, requested, authorized, endorsed, or implemented appear to have contributed to detainee abuses in Afghanistan, Guantanamo Bay, and Iraq, including those at Abu Ghraib prison.

(a) Do you agree that you should personally be disqualified from any investigation or inquiry into detainee abuses due to the appearance of, or actual, conflicts of interest that your past activities as White House Counsel may create?

Response: In a press briefing on August 24, 2004, the Schlesinger Panel clearly concluded that there was no government policy that called for the torture or inhumane treatment of detainees. "But a series of failures across the Department of Defense, the Army, and U.S. Central Command contributed to an atmosphere that allowed some of these abuses to occur." (Congresswoman Fowler) If confirmed, I would take extremely seriously my obligation to recuse myself from any matter whenever appropriate, and

would consult with other lawyers with experience and expertise at the Department of Justice if any such question arises. I would do my best to ensure that the Department does not become politicized. I would treat with equal seriousness my responsibility to enforce the law fairly and equally on behalf of all Americans.

17) When did you first become aware that FBI personnel had observed, and/or complained about, and/or departed various locations because of, such abuses by military, intelligence, or contractor personnel? How were you informed? What did you do in response to that discovery? Please provide details.

Response: I became aware of the reports to which you refer when they were reported in the press. I am confident that all credible allegations of abuse are being vigorously investigated by the appropriate agencies.

18) During the hearing, you made specific reference to the possibility of your having a role in investigating the substance of the FBI e-mails produced by the ACLU that reported interrogation abuses at Guantanamo Bay. You called the accuracy of the e-mails into question due to a claimed erroneous reference to an "Executive Order." I am disturbed that you expressed skepticism about the general veracity of FBI agents reporting human rights violations at Guantanamo Bay because of a possible mistake in bureaucratic terminology.

(a) Do you really believe that FBI agents would falsely describe serious criminal activities by other government agents that they witnessed at Guantanamo Bay in their official, internal correspondence?

Response: I did not express skepticism about the "general veracity of FBI agents." An Executive Order of the type referenced in the e-mail you have cited simply does not exist, and it is, in my view, appropriate to make that fact clear. I have no reason to believe that FBI agents would knowingly provide false descriptions; that does not mean that they are not mistaken.

(b) Don't your comments serve to discourage the reporting of abuses and contribute to an environment that values secrecy above candor?

Response: No. I encourage anyone with information regarding abuses to make that information known to the appropriate authorities.